



STATE OF NEVADA
COMMISSION ON ETHICS
<http://ethics.nv.gov>

Wednesday, October 11, 2006
9:00 a.m.

Nevada Legislature
401 South Carson Street, Room 3137
Carson City, Nevada 89701

Via videoconference to:

Legislative Counsel Bureau
Grant Sawyer Building
555 E. Washington Avenue, Room #4401
Las Vegas, Nevada 89101

MINUTES

These minutes constitute a summary of the above proceedings of the Nevada Commission on Ethics.
A verbatim transcript of the open session proceedings, prepared by a certified court reporter,
is available for inspection at the Commission offices in Carson City and Las Vegas.

Commission Members Present (in Carson City):
Rick Hsu, Esq.; George Keele, Esq.

Commissioners Members Present (in Las Vegas):
Caren Jenkins, Esq., Chairman; Mark A. Hutchison, Esq., Vice Chairman;
Randall Capurro; Timothy Cashman; William Flangas;

Commission Member Absent and Excused:
Jim Kosinski, Esq.

Commission on Ethics Staff Present (in Carson City):
L. Patrick Hearn, Executive Director
Adriana G. Fralick, Esq., General Counsel
Emily H. Nunez, Office Manager

Commission on Ethics Staff Present (in Las Vegas):
Tami DeVries, Research Analyst
Matt Di Orio, Senior Investigator

Others present:
Janet Porter, Louis Roggensack,
Brent Eldridge, and media representative

Chairman Jenkins called the meeting to order at 9:08 a.m., Wednesday, October 11, 2006.

Agenda Item 1 – Open Session for discussion and possible action regarding the Minutes of the September 13, 2006, meeting

Chairman Jenkins opened this agenda item to approve the minutes of the September 13, 2006, meeting. Commissioner Keele requested a typographical correction and moved to approve the minutes as amended. Commissioner Hutchison seconded the motion. The motion was put to a vote and passed unanimously. Commissioners Jenkins and Hsu abstained from the vote, because they were not present at the September 13, 2006, meeting. The agenda item was closed.

Agenda Item 2 – Request for Opinion No. 06-63

Open Session pursuant to NRS 281.511(5) to hear testimony, receive evidence, deliberate and render an opinion relating to a confidential Advisory Opinion request submitted by Janet Porter, Commission on Common-Interest Communities, pursuant to NRS 281.511(1). (Confidentiality waived)

Chairman Jenkins opened this agenda item and asked Ms. Porter to provide an overview of the issue before the Commission. Ms. Porter stated that Sage Creek is her homeowners' association governed by three members. The association has tried unsuccessfully to fill a board vacancy for four years. She applied to serve as a volunteer on the executive board, but a member of the executive board of directors was concerned that her service on the Commission for Common-Interest Communities would cause an ethical violation.

After deliberating, Commissioner Hutchison moved that the Commission find that nothing in the facts provided by Ms. Porter suggests that her dual appointment as a commissioner and a board member alone poses a conflict under the provisions of NRS 281. However, Ms. Porter, with guidance of her legal counsel, needs to make a case-by-case analysis of the required disclosures and abstention provisions in NRS 281.501, specifically as cited by the NCOE in the Woodbury decision, whenever a matter related to her homeowners' association comes before her commission. Commissioner Keele seconded the motion. The motion was put to a vote and passed unanimously.

The agenda item was closed and a recess was taken.

Agenda Item 3 – Request for Opinion No. 06-60

Closed Session pursuant to NRS 281.511(5) to hear testimony, receive evidence, deliberate and render an opinion relating to a confidential Advisory Opinion Request submitted pursuant to NRS 281.511(1).

A lunch recess was taken at 1:05 p.m., and the meeting reconvened at 1:40 p.m.

Agenda Item 4 – Request for Opinion No. 06-59

Open Session pursuant to NRS 281.511(5) to hear testimony, receive evidence, deliberate and render an opinion relating to a confidential Advisory Opinion request submitted by Brent Eldridge, White Pine County Commissioner, pursuant to NRS 281.511(1).
(Confidentiality waived)

Chairman Jenkins opened this agenda item, and asked Patrick Hearn, Executive Director, to provide an introduction. Mr. Hearn stated that Mr. Eldridge is a member and serves as chairman of the White Pine County Board of Commissioners. He is a stockholder in a family ranching corporation, which operates within the Spring and Snake Valleys in White Pine County. He receives no compensation or dividends from the ranch, which is operated by his brothers and nephew. The Southern Nevada Water Authority (SNWA) recently purchased two Spring Valley ranches which interlock with Mr. Eldridge's family's properties. Therefore, Mr. Eldridge resigned from a county negotiation team because he perceived a conflict of interest if SNWA attempts to purchase his family's ranch.

After deliberations, Commissioner Flangas moved that Mr. Eldridge needs to disclose his private interests with regard to his family ranching corporation whenever a matter affecting it comes before the public boards on which he sits. If the matter involves rights shared by a group in which Mr. Eldridge is a member, and the benefit or detriment accruing to him as a result of a decision is not greater than that accruing to any other member of the group, then Mr. Eldridge is not prohibited from participating and voting on the matter. Accordingly, Mr. Eldridge ran his campaign on a platform of protecting resources within his county, and he should have an opportunity to perform the duties for which he was elected. Furthermore, Mr. Eldridge is advised that the questions he posed to the Commission should be evaluated under the provisions of NRS 281.501 and the Woodbury decision. Commissioner Capurro seconded the motion. The motion was put to a vote and passed unanimously.

Agenda Item 5 – Request for Opinion No. 06-50

Closed Session pursuant to NRS 281.511(5) to hear testimony, receive evidence, deliberate and render an opinion relating to a confidential Advisory Opinion Request submitted pursuant to NRS 281.511(1).

Agenda Item 6 – Request for Opinion No. 06-51

Closed Session pursuant to NRS 281.511(5) to hear testimony, receive evidence, deliberate and render an opinion relating to a confidential Advisory Opinion Request submitted pursuant to NRS 281.511(1).

Agenda Item 7 – Open Session to discuss the role of General Counsel

Chairman Jenkins opened this agenda item, to discuss the role of General Counsel in reviewing staff reports to the Commission and correspondence on the request of the Commission or the Executive Director.

Executive Director Hearn requested that General Counsel be directed to review and “sign off” on the Executive Director’s Report and Recommendations to ensure that the conclusions are legally defensible. Counsel Fralick stated concern that her signature may create an appearance that the report reflected her legal analysis and legal conclusions or that it might be used to discredit the Commission’s findings if they are contrary to the report. Furthermore, she was concerned that problems would arise if she did not agree with Mr. Hearn’s conclusion and recommendation.

The Commission agreed that Ms. Fralick should review the reports and bring her concerns to the Executive Director’s attention, however, that a signature by General Counsel on the Executive Director’s Report and Recommendation was not necessary.

No further action was taken.

Agenda Item 8 – Open Session to discuss potential violations

Chairman Jenkins opened this agenda item to discuss potential violations for which complaints have not been received. Mr. Hearn posed a hypothetical question about the Commission’s authority to bring complaints on its own motion, and requested guidance on this issue. For instance, if an article was printed in the paper but no complaint has been filed, and we have access to the documents where there’s a strong appearance that a violation may have occurred, Mr. Hearn stated that we might be doing the public a disservice to not take some type of action.

The Commission advised Mr. Hearn of past and future situations in which it would consider to file a complaint on its own motion.

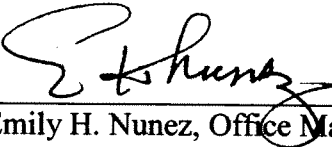
No further action was taken, and the agenda item was closed.

Agenda Item 9 – Public Comment

Chairman Jenkins opened the agenda item for public comment. There were no members from the public present, and the agenda item was closed.


Chairman Jenkins adjourned the meeting at 4:40 p.m.

Minutes transcribed by:



Emily H. Nunez, Office Manager

Minutes approved December 13, 2006



Caren Jenkins, Esq., Chairman